

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For : Reissue of U.S. Patent No. 5,674,285
Patentee : Joel Quaid
Patent No. : 5,674,285
Issued : October 7, 1997
Title : MAMMARY IMPLANT HAVING SHELL WITH UNITARY
ROUGH-TEXTURED OUTER LAYER

Docket No. : 35871/MAK/M478

DECLARATION UNDER 37 C.F.R. 1.175 FOR REISSUE PATENT APPLICATION

Post Office Box 7068
Pasadena, CA 91109-7068
October 5, 1999

Assistant Commissioner for Patents
Washington, D.C. 20231

Commissioner:

I, Joel Quaid, hereby declare that I am a citizen of the United States of America and reside at 350 Woodley Drive, Santa Barbara, California 93108. I believe I am the original, first, and sole inventor of the subject matter described and claimed in Patent No. 5,674,285, granted October 7, 1997, for which a reissue patent is sought on the invention entitled MAMMARY IMPLANT HAVING SHELL WITH UNITARY ROUGH-TEXTURED OUTER LAYER, the specification of which is attached hereto. The application for patent was filed on December 12, 1995 as application Serial No. 08/570,802.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, in both the original patent and the application for reissue.

I acknowledge the duty to disclose information known to me to be material to the examination of this application, in accordance with Title 37, Code of Federal Regulations, section 1.56(a).

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I believe the above-referenced original patent to be partially inoperative by reason that the claims of the original patent were erroneously and inadvertently narrowed during prosecution beyond what was needed to distinguish over the cited prior art. This inadvertence caused the issued claims to be narrower in scope than what I had a right to claim.

Specifically, claims 1, 3, 5 and 6, the four independent claims that issued in the original patent are directed to an implantable mammary device having a substantially homogeneous silicone elastomer flexible shell of unitary construction comprising a group of "cells varying in diameter from about 10 microns to about 600 microns." In claims 1 and 3 the interconnected cells are "located at and near the surface to a depth of about 1800 microns." In claims 5 and 6, a first group of cells is in direct communication with the external surface and have a range of depths down to about 600 microns below the external surface and a second group of cells have a range of depths down to about 1800 microns.

These claims fail to fully define my invention because the diameter and range of depths of the cells is unduly limiting, whereas broader aspects of the invention may be practiced in the claimed combination. All that is required is that the cells be part of a unitary and homogeneous silicone elastomer flexible shell.

All errors which are being corrected in the present reissue application up to the time of filing of this declaration arose without any deceptive intention my part.

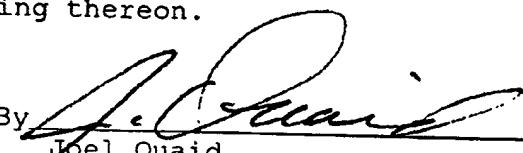
I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

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Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 10/5/99

By


Joel Quaid
350 Woodley Drive
Santa Barbara, California 93108
Citizenship: U.S.A.

MAK/vfg
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